

## § 52.53

## 7 CFR Ch. I (1–1–04 Edition)

will be billed to the applicant monthly for all hours worked with a minimum of 40 hours per week for each inspector assigned to perform the inspection services in accordance with the following schedule:

(1) For personnel assigned on a year-round basis: Each inspector—\$39.00 per hour.

(2) For personnel assigned on less than a year-round basis: Each inspector—\$52.00 per hour. In-plant sampler—\$22.00 per hour.

(3) Holiday pay. An eight (8) hour charge will be made for each inspector assigned at their regular hourly rate. When work is performed, an additional hour at the regular hourly rate will be charged for each hour worked.

(4) Night differential. A 10 percent night differential charge will be made for all work performed between the hours of 6 p.m. and 6 a.m.

(5) *Overtime*. All overtime hours will be charged at the regular rates specified in paragraphs (c)(1) and (2) of this section, plus one-half the hourly rate, per hour.

(d) Charges for less than year-round in-plant inspection services (four or more consecutive 40 hour weeks) on a contract basis will be billed to the applicant monthly for all hours with a minimum of 40 hours for each inspector assigned to perform the inspection services in accordance with the following schedule:<sup>1</sup>

(1) Each inspector—\$52.00 per hour.<sup>1</sup>

(2) In-plant sampler—\$22.00 per hour.

(3) Holiday pay. An eight (8) hour charge will be made for each inspector assigned at their regular hourly rate. When work is performed, an additional hour at the regular hourly rate will be charged for each hour worked.

(4) Night differential. A 10 percent night differential will be charged for all work performed between the hours of 6 p.m. and 6 a.m.

(5) *Overtime*. All overtime hours will be charged at the regular rates specified in paragraphs (d)(1) and (2) of this section, plus one-half the hourly rate, per hour.

<sup>1</sup> Except a minimum of 8 hours per day will be billed in lieu of a minimum of 40 hours a week.

(e) No Member of, or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of any contract provided for in this section or to any benefit that may arise therefrom, but this provision shall not be construed to extend to such contract if made with a corporation for its general benefit, and shall not extend to any benefits that may accrue from the contract to a Member of, or Delegate to Congress, or a Resident Commissioner in his capacity as a farmer.

[38 FR 25168, Sept. 12, 1973, as amended at 40 FR 47753, October 10, 1975. Redesignated at 42 FR 32514, June 27, 1977, and amended at 42 FR 45327, Sept. 9, 1977; 43 FR 46291, Oct. 6, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 20108, May 11, 1982; 51 FR 20445, June 5, 1986. Redesignated and amended at 54 FR 50732, Dec. 11, 1989; 56 FR 27899, June 18, 1991; 59 FR 41378, Aug. 12, 1994; 61 FR 25550, May 22, 1996; 63 FR 50746, Sept. 23, 1998; 65 FR 66487, Nov. 6, 2000; 68 FR 61734, Oct. 30, 2003]

### MISCELLANEOUS

#### § 52.53 Approved identification.

(a) *General*. Use of the approved identification marks described and illustrated in Figures 1 through 10 of this section is restricted to processed products that:

(1) Are clean, safe, and wholesome;

(2) Have been produced or packed in an approved plant.

(3) Are truthfully and accurately labeled.

(4) When graded against a U.S. grade standard, meet the quality requirements for U.S. Grade C or better;

(5) Meet applicable fill weight and/or drained weight, Brix or other characteristics of a commodity related to market value;

(6) Have been certified, or have been inspected and are eligible for certification, by an inspector; and, in addition, meet the specific requirements stated in (b), (c), and (d) of this section.

(7) Labels and advertising material containing or referring to approved identification must be approved by USDA inspection service prior to use.

(b) *Inspection (Continuous) grade and inspection marks*. The official marks approved for use by plants operating under USDA continuous inspection service contracts shall be similar in

form and design to the examples in Figures 1 through 10 of this section: *Provided*, That the official marks illustrated by figures 8 and 9 are limited to products packed by plants operating under an approved Quality Assurance type of inspection contract: *And provided further*, That the inspection marks illustrated in figures 1 through 4 may only be used on products packed by plants operating under USDA continuous inspection.



FIGURE 1.

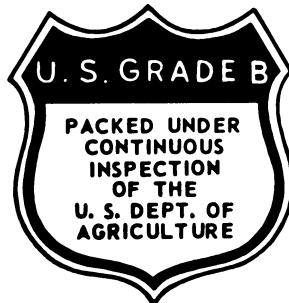


FIGURE 2.



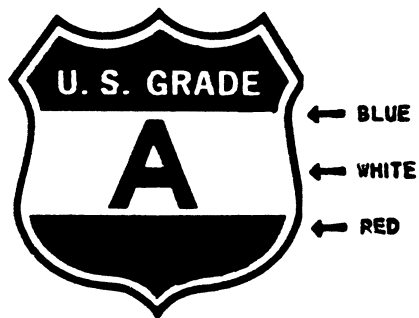
Statement enclosed within a shield.

FIGURE 3.  
PACKED UNDER  
CONTINUOUS  
INSPECTION  
OF THE  
U. S. DEPT. OF  
AGRICULTURE

Statement without the use of the shield.

FIGURE 4.

(c) *In-plant inspection (other than continuous) grade and inspection marks.* The official marks approved for use by plants operating under USDA inspection service contracts (other than continuous) requiring a resident inspector shall be limited to those similar in form and design to the examples in Figures 5 through 14 of this section; *Provided*: That the official marks illustrated by Figures 9 and 10 are limited to products packed by plants operating under an approved Quality Assurance type of an inspection contract.



Shield using red, white, and blue background or other colors appropriate for Label.

FIGURE 5

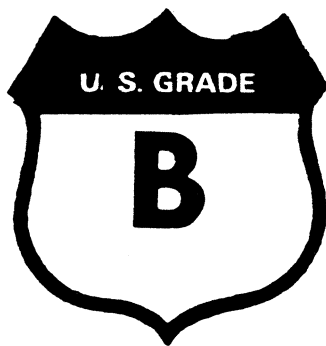


FIGURE 6

**PACKED UNDER  
INSPECTION  
OF THE  
U. S. DEPT. OF  
AGRICULTURE**

Statement without  
the use of the shield.

FIGURE 7



Statement enclosed  
within a shield.

FIGURE 8



FIGURE 9  
PACKED UNDER  
QUALITY ASSURANCE  
PROGRAM  
of the  
U.S. DEPT. OF AGRICULTURE

Statement without the use of the shield.

FIGURE 10

(d) *“Approved plant-lot inspection” grade and inspection marks.* Processed products that are produced in an approved plant as defined in § 52.2 and inspected and certified by an inspector on a lot basis may be labeled with an official mark as defined in § 52.3 when adequate control and use is approved. The use of official marks for this type of service is restricted to grade marks (with or without plain shield) and/or the statement “Inspected by the U.S.

Department of Agriculture” (with or without plain shield). The official marks shall be similar in form and design as illustrated in figures 11 through 14. Failure to have all lots bearing official marks either inspected and certified or certified as produced in an approved plant shall cause the debarment of the user from receiving subsequent services, and such other actions as provided for in the Agricultural Marketing Act of 1946.



Shield with plain  
background

Figure 11

(1) U. S. GRADE A

(2) U. S. GRADE B

(3) U. S. GRADE C

Figure 12



Statement enclosed  
within a shield.

**Figure 13**

**INSPECTED  
BY THE  
U.S. DEPT. OF  
AGRICULTURE**

Statement without  
the use of the shield.

**Figure 14**

(e) *Sampling marks.* Processed products which have been sampled for inspection as provided in this part may, at the option of the Department, be identified by an authorized representative of the Department. The products are identified by stamping the container(s) comprising such lot(s), with an official “sampling mark”, similar in form and design to the example in figure 15 of this section. The “sampling marks” will identify products officially sampled by a particular field office. Such mark will include a code identi-

fying the field office performing the sampling.



**FIGURE 15**

(f) *Removal of labels bearing approved grade or inspection marks.* (1) At the time a lot of processed products bearing approved grade or inspection marks is found to be mislabeled, the processor shall separate and retain such lot for relabeling. Removal and replacement of labels shall be done, under the supervision of a USDA inspector, within the time specified by the Administrator or as may be mutually agreed by the processor and the Administrator.

(2) The processor shall be held accountable to the Department for all mislabeled products until the products have been properly labeled.

(3) Clearance for the release of the relabeled product shall be obtained, by the processor, from the inspector.

(g) *Licensing and identification of certain official devices.* The Administrator may issue licenses permitting the manufacture, identification, and sale of any official device designated as a USDA color standard, defect guide or other similar aid under such terms and conditions as may be specified by the Administrator. Licenses shall be available to all persons meeting conditions prescribed by the Administrator, shall be nonexclusive, and shall be recoverable for cause. No person shall manufacture, identify, distribute or sell any such official device except at the direction of

or under license from the Administrator. Such official devices may be marked, tagged or otherwise designated with the prefix "USDA" together with other identifying words or symbols, as prescribed by the license.

(h) *Prohibited uses of approved identification.* Except as specified in this section, no label or advertising material used upon, or in conjunction with a processed product, as defined by these Regulations, shall bear a brand name, trademark, product name, company name, or any other descriptive material that incorporates, resembles, simulates, or alludes to, any official U.S. Department of Agriculture certificate of quality or loading, grade mark, grade statement (except honey and maple syrup which may bear such grade mark or statement), continuous inspection mark, continuous inspection statement, sampling mark or sampling statement, or combinations of one or more thereof.

(i) *Disposition of labels bearing approved grade or inspection marks when a contract is cancelled.* Upon cancellation of a contract, labels bearing approved grade or inspection marks shall remain under the control of the inspection service. The inspection service will approve disposition of said labels for destruction, sale or transfer to another approved plant, remove or obliterate the grade or inspection mark, or other action as may be agreed upon by all interested parties.

[38 FR 25169, Sept. 12, 1973, as amended at 40 FR 48934, Oct. 20, 1975. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981; 48 FR 12326, Mar. 24, 1983; 51 FR 20446, June 5, 1986; 60 FR 3533, Jan. 18, 1995]

#### § 52.54 Debarment of service.

(a) The following acts or practices, or the causing thereof, may be deemed sufficient cause for the debarment, by the Administrator, of any person, including any agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the Act for a specified period. The Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes set forth in §§ 1.130 through 1.151 of this title and the Supplemental Rules of Practice in

part 50 of this chapter shall be applicable to such debarment action.

(1) *Fraud or misrepresentation.* Any misrepresentation or deceptive or fraudulent practice or act found to be made or committed in connection with:

(i) The making or filing of an application for any inspection service;

(ii) The submission of samples for inspection;

(iii) The use of any inspection report or any inspection certificate, or appeal inspection certificate issued under the regulations in this part;

(iv) The use of the words "Packed under continuous inspection of the U.S. Department of Agriculture," any legend signifying that the product has been officially inspected, any statement of grade or words of similar import in the labeling or advertising of any processed product;

(v) The use of a facsimile form which simulates in whole or in part any official U.S. certificate for the purpose of purporting to evidence the U.S. grade of any processed product.

(2) *Wilful violation of the regulations in this subpart.* Wilful violation of the provisions of this part of the Act.

(3) *Interfering with an inspector, inspector's aid, or licensed sampler.* Any interference with, obstruction of, or attempted interference with, or attempted obstruction of any inspector, inspector's aide, or licensed sampler in the performance of his duties by intimidation, threat, assault, bribery, or any other means—real or imagined.

[38 FR 25170, Sept. 12, 1973. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981; 60 FR 8464, Feb. 14, 1995]

#### § 52.55 Political activity.

All inspectors and licensed samplers are forbidden, during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activities in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, are prohibited. This applies to all appointees or licensees, including, but not limited to, temporary and cooperative employees and employees on leave of absence with